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October 2, 1997

Federal Express

WRITTEN EX PARTE PRESENTATION

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street N. W.
Room 222
Washington D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-128
Payphone Compensation for Access Code and Subscriber 800 Traffic

Dear Mr. Caton:

Please be advised that we have today sent a written ex parte presentation in the above matter via Federal Express delivery. Following is a sample of the letter which was sent to each of the four Commissioners, each letter differing only as to the name of the addressee. We have provided an extra copy of this submission, which we would ask that you stamp and return to our attention in the enclosed self-addressed, postage prepaid, envelope.

Thank you for your consideration.

Sincerely,

Michael W. Ward

Michael W. Ward

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Federal Express

WRITTEN EX PARTE PRESENTATION

Mr. Reed Hundt
Chairman
Federal Communications Commission
1919 M Street N.W.
Washington D.C. 20554

Re: CC Docket No. 96-128
Payphone Compensation for Access Code and Subscriber 800 Traffic

Dear Chairman Hundt:

The Illinois Public Telecommunications Association ("IPTA") submits this written ex parte presentation to address the various cost submissions made to the Federal Communications Commission ("Commission") in the instant record regarding payphone compensation for access code and subscriber 800 calls.

The IPTA is concerned about the status of the record and the ambiguities raised by the rhetoric submitted by the parties. In its opinions, the U.S. Court of Appeals has stated that the Commission must respond to the arguments raised by interexchange carriers that the Commission's determination of the compensation rate of \$0.35 per call does not address the differences in cost between a coin call and a coinless call involved in access code and subscriber 800 traffic. These interexchange carriers' arguments have focused on selectively identifying an individual cost, or costs, which may be present in a coin call but not in a coinless call. They then argue that this cost must be deducted from the costs of a coin call in determining the costs of a coinless call. However, no interexchange carrier has submitted any cost study for coin calls from which those individual inputs could be deducted. Rather, the speculative arguments make the unsustainable leap of deducting a selective *cost* input for a coin call from the *price* of a given coin call, without ever identifying the actual costs of that call, or whether that price, standing alone, covers the average incremental costs of payphone calls.

The only complete cost studies submitted to the Commission have been those submitted by the providers of the payphone services. The costs of record reflect that the costs of a coinless call

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range from \$0.2953 to \$0.55. However, the interexchange carriers argue that these are bias submissions by interested parties designed to obtain a given end result.

The IPTA wishes to direct the Commission to the fact that it has before it in this record a complete cost study, prepared by a party with no vested interest in any given outcome. In a docket dedicated solely to the determination of the appropriate rate of compensation for access code and subscriber 800 calls, the Staff of the Illinois Commerce Commission did its own study of the underlying costs. See Initial Comments of the Illinois Public Telecommunications Association, July 1, 1996, and its Appendix B: *AAA Coin Phones & Systems, Inc. et al. v American Telephone and Telegraph Company, et al.* ICC Docket No. 92-0400, Order, October 3, 1995. The Illinois Staff determined the forward looking average incremental costs of an access code or a subscriber 800 call by reviewing an extensive payphone cost base of all of the tier one LECs in Illinois. This analysis deleted all usage costs, and employed the forward looking long run service incremental cost ("LRSIC" or "TSLRIC") standard utilized by this Commission in forming its own cost analysis for total element long run incremental costs ("TELRIC") under the same Telecommunications Act of 1996. (If the Illinois Staff had used fully distributed or embedded costs, the per call costs would have been higher.)

Both the payphone providers and the nation's three largest interexchange carriers, AT&T, MCI, and Sprint, which collectively constitute over 90% of the traffic in question here, were represented by counsel, conducted discovery, submitted the testimonies of over 20 witnesses, engaged in 6 days of cross-examination, filed briefs, wrote exceptions to the proposed orders, presented oral argument before the full Illinois Commerce Commission, and received a determination based on a record with a complete cost analysis. The less than candid, piecemeal cost submissions of some interexchange carriers here certainly pale in comparison. The Illinois Commerce Commission determined that the average fixed incremental costs underlying an access code or subscriber 800 call, utilizing payphone facilities for an average intrastate call of between three to four minutes, are \$0.30 per call. Applying the Illinois Commerce Commission's finding of the per call costs of \$0.30 for a three to four minute call, to the estimated length of an interstate call of five minutes, this cost analysis results in an underlying cost of \$0.36 per call.

This is the only known full hearing on the actual costs underlying access code and subscriber 800 calls. Neither AT&T nor MCI took issue with the appropriate per call costs as found by the Illinois Staff. Sprint argued to ignore LRSIC costs and award zero compensation. All of these interexchange carriers accepted the findings of the Illinois Commerce Commission without appeal. This documented evidence is of record in this proceeding through both the Initial Comments and the Remand Reply Comments of the IPTA, filed July 1, 1996, and September 9, 1997, respectively.

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The process employed by some carriers to selectively speculate on the impact of individual cost inputs of a coin call, where no complete coin call cost analysis is of record, is unsustainable. In contrast, the Illinois Commerce Commission's complete economic cost analysis, of record in this proceeding, constitutes the best available evidence as to the minimum cost for which payphone providers must be compensated. Actually, no better evidence can be produced short of this Commission conducting its own hearing. This evidence fully and comprehensively complies with the directives of the U.S. Court of Appeals to address the arguments regarding the underlying costs for the compensation due payphone providers.

As an alternative to the cost-based approach, the Court of Appeals has already recognized as valid the market-based approach for the setting of an appropriate compensation rate, as in the case of the local coin rate. Should the Commission again utilize this standard, the justified rate of compensation would be higher, as shown by the parties' submissions in the record. However, the evidence establishes that under no theory may the compensation level fall below that identified as the actual economic costs per call to the payphone providers, as established by the cost data of the Illinois Staff.

The Illinois Public Telecommunications Association respectfully submits that it is essential in obtaining a valid and sustainable order that the Commission clearly distinguish between market-based prices and the incremental call costs in its analysis. The Commission must remain consistent within its application of these separate and distinct concepts. On a cost-based analysis, the evidence is clear, unbiased, and irrefuted that the low range of fixed incremental costs to payphone providers for an access code or subscriber 800 call is no less than \$0.30 to \$0.36 per call. Some incumbent local exchange companies have indicated that they may tariff additional charges for enabling the processing of a per call compensation plan. These charges would be additional direct costs which would be required to be added to the above costs already identified. Therefore, any such additional costs must also be included in setting a compensation rate.

Respectfully submitted,

ILLINOIS PUBLIC TELECOMMUNICATION ASSOCIATION

By Michael W. Ward
Michael W. Ward, General Counsel